

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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NEIL JOHNSON,

Plaintiff,

- against -

Warden J. KILLIAN,  
and Chaplain RABBI LASKIN,

Defendants.  
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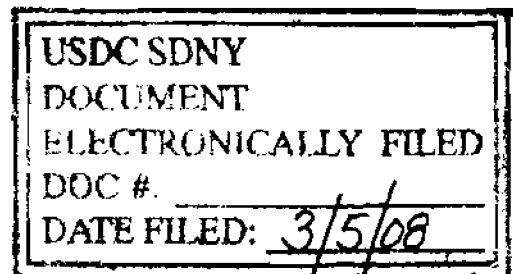
DOUGLAS F. EATON, United States Magistrate Judge.

My December 20, 2007 Memorandum and Order said: "I hereby allow plaintiff until March 20, 2008, to serve and file a motion asking for leave to serve a proposed Amended Complaint, and I hereby stay all other proceedings in this case until such a motion is served." Instead of serving a motion for leave, Mr. Johnson simply served a proposed First Amended Complaint. I will assume that he is moving for leave to proceed on this First Amended Complaint. I deny such leave, for the following reasons.

My December 20, 2007 Memorandum and Order said:

Mr. Johnson [writes from FCI Elkton in Ohio that] "there are other inmates currently of the Islamic Faith still confined at Otisville that are prepared to sign on as Plaintiffs in the pending action, hence a motion for class certification will be submitted in this action." However, a non-lawyer can never represent any class or any person other than himself. Accordingly, any inmate who feels aggrieved will have to file his own grievance, and then exhaust his administrative remedies, and then file his own lawsuit.

Despite my ruling, we now have the proposed First Amended Complaint listing eight inmates as plaintiffs. On January 18, 2008, Mr. Johnson signed it in FCI Elkton; on January 24, seven inmates signed it in FCI Otisville and one of them (Kevin Washington) mailed it to our Court's Pro Se Office. The proposed First Amended Complaint contains no allegation that Mr. Johnson or any of the seven Otisville inmates has filed any grievance, or has exhausted his administrative remedies.



07 Civ. 6641(LTS) (DFE)

MEMORANDUM AND ORDER

I will give Mr. Johnson one last chance to serve and file a motion for leave to serve a proposed Second Amended Complaint. He must remain as a single plaintiff. The deadline for filing such a motion is either (a) March 20, 2008, or (b) 14 days after he receives a final decision on his grievance about his allegedly wrongful transfer from Otisville to Elkton. If Mr. Johnson chooses to take advantage of the second deadline, then he must send me, by March 20, 2008, proof that he has filed a grievance about his transfer (and a copy of that grievance). If Mr. Johnson does not serve and file a timely motion asking me for leave to serve a proposed Second Amended Complaint, then I will recommend that Judge Swain dismiss his lawsuit on the ground that his original Complaint is moot.

*Douglas F. Eaton*

DOUGLAS F. EATON  
United States Magistrate Judge  
500 Pearl Street, Room 1360  
New York, New York 10007  
Telephone: (212) 805-6175  
Fax: (212) 805-6181

Dated: New York, New York  
March 4, 2008

Copies of this Memorandum and Order are being sent to:

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For information only:  
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Pro Se Office

Hon. Laura Taylor Swain